

AMENDMENTS TO THE DRAWINGS

Attached is one (1) replacement drawing sheet which includes Figures 9-12. This replacement drawing sheet replaces the original drawing sheet including Figures 9-12. Figure 9 has been amended to include reference numerals 951a and 951b. No new matter has been added.

Attachment: 1 Replacement Sheet

REMARKS

In response to the office action dated May 1, 2007, the applicants submit this Amendment accompanied by a petition for a one-month extension of time and the requisite petition fee. No additional fees are believed to be necessary for proper entry and consideration of this Amendment. Nevertheless, if the Office deems otherwise, kindly charge the cost thereof to Deposit Account No. 13-2855, Order No. 29617/SH009A.

In light of the following remarks, the applicants believe that the present application is in condition for allowance and respectfully request the examiner to acknowledge the same.

SPECIFICATION OBJECTIONS

The specification stands objected to for failing to provide proper antecedent basis for the terms/phrases “side wall,” “rear wall,” and “enclosing a rear end,” as recited in claim 78.

Paragraph [0055] of the specification has been amended herein to recite: “The body 951 includes a sidewall 951a and a rear wall 951b enclosing a rear end of the body 951. The rear wall 951 is disposed at an end of the body 951 and has a recess 953.” Support for this amendment is found, for example, in Figures 9 and 10, as originally filed. Additionally, Figure 9 has been amended herein to include reference characters 951a and 951b to be consistent with amended paragraph [0055].

Reconsideration and withdrawal of this objection is respectfully requested.

CLAIM REJECTIONS UNDER 35 U.S.C. §112

Claim 78 stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite for lacking antecedent basis for “the sealed rear end.”

Claim 78 has been amended to address the asserted antecedent basis rejection.

Reconsideration and withdrawal of this rejection is respectfully requested.

CLAIM REJECTIONS UNDER 35 U.S.C. §102 AND §103

Claims 45 and 49-52 stand rejected under 35 U.S.C. §102(b) as anticipated by Ross (U.S. Patent No. 2,073,719). Claim 78 stands rejected under 35 U.S.C. §102(b) as anticipated by Connors (U.S. Patent No. 6,283,661). Claims 53 and 54 stand rejected under

35 U.S.C. §103(a) as obvious over Ross. The applicants respectfully traverse these rejections. Reconsideration is requested.

Claims 45 and 49-52

As argued in response to the previous office action, the applicants submit that Ross does not teach a nub of a dispenser base having a shape that is complementary to the shape of a recess formed in a dispenser housing, as recited in independent claim 45.

Ross discloses a holder 10 with upper and lower end portions 11, 12, and a sleeve 24 wrapped around the upper end portion 11. The outstanding office action alleges that the base 12 (i.e., the lower end portion 12 of the holder 10) is sized such that it may slide within the housing 24 (i.e., the upper end portion 11 of the holder 10) and, therefore, the examiner concludes that the base 12 is complementary to a recess in the housing 24 (i.e., the upper end portion 11). Office Action at Page 3, lines 13-21. The applicants respectfully disagree with this interpretation of Ross.

With reference to Figure 1 of Ross, which is reproduced below for convenience, the upper end portion 11 of the holder 10 is double-walled along its entire length, i.e., from a location near the lead line for reference numeral 10 to a location near the lead line for reference numeral 23. The bottom end portion 12 has the same dimensions as the inner wall of the upper end portion 11. In fact, the bottom end portion 12 appears to merely be an extension of the inner wall of the upper end portion 11. Therefore, the bottom end portion 12 could not possibly "slide within" the upper end portion 11 such that the bottom end portion 12 is complementary to a recess in the upper end portion 11, as recited in claim 45.

Therefore, Ross fails to anticipate claim 45 and each claim dependent thereon.

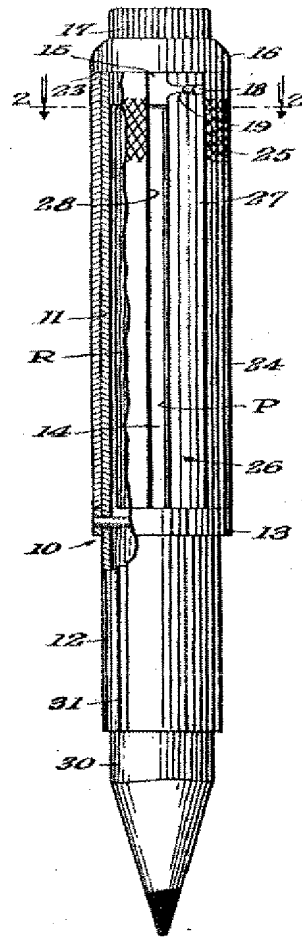


Fig. 1.

Claim 78

The applicants further respectfully submit that the anticipation rejection of claim 78 over Connors is also improper. The office action contends that element 14 of Connors constitutes an “ink reservoir” and, therefore, wall 16 of Connors “encloses” a rear end of the ink reservoir, as recited in claim 78. Office Action at page 4, lines 8-19. The applicants respectfully disagree.

First, element 14 of Connors does not constitute an “ink reservoir,” as recited in claim 78. Connors includes a tube 22 that constitutes the ink reservoir. As depicted in FIG. 2, element 14 merely includes a “lower housing” of the writing instrument, through which the tube 22 extends. Thus, the lower housing 14 is not an ink reservoir because it does not contain ink.

Moreover, the wall 16 of Connors does not “enclose” a rear end of an ink reservoir, as recited in claim 78. A person having ordinary skill in the art of writing instruments and, more particularly, highlighters would construe the term “enclosing” to include closing in, holding in, and/or confining, as defined by *Merriam-Webster’s Online Dictionary*.¹ A rear wall “enclosing” a rear end of an ink reservoir must therefore close in, hold in, or confine the rear end of the ink reservoir. As discussed above, the ink reservoir of Connors includes the tube 22. As depicted in FIG. 2, the tube 22 extends through the wall 16. Thus, the wall 16 does not enclose the rear end of the tube 22.

Accordingly, Connors cannot anticipate claim 78, and claim 78 is in condition for allowance.

Reconsideration and withdrawal of these rejections is respectfully requested.

REJOINDER

The applicants additionally request rejoinder of presently withdrawn claims 3-6, 8, 13, 17, 19, 22, 23, 25-38, 40-43, 47, 48, and 55, as each of these claims depend from one of allowable claims 1 and 45.

CONCLUSION

The applicant respectfully submits that the pending application is in condition for allowance. If, in the opinion of the examiner, a telephone conference would expedite prosecution of the subject application, the examiner is invited to call the undersigned attorney.

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Respectfully submitted,

By 

Michael P. Furmanek

Registration No.: 58,495

MARSHALL, GERSTEIN & BORUN LLP

233 S. Wacker Drive, Suite 6300

Sears Tower

Chicago, Illinois 60606-6357

(312) 474-6300

Attorney for Applicant

¹ A copy of this definition is presented in Appendix A.

APPENDIX A



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enclose

One entry found for **enclose**.

Main Entry: **en·close** 

Pronunciation: in-'klOz, en-

Variant(s): *also* **in·close** /in-/

Function: *transitive verb*

Etymology: Middle English, probably from *enclos* enclosed, from Anglo-French, past participle of *enclore* to enclose, from Vulgar Latin **includere*, alteration of Latin *includere* -- more at [INCLUDE](#)

1 a (1) : to close in : [SURROUND](#) <enclose a porch with glass> (2) : to fence off (common land) for individual use **b** : to hold in : [CONFIN](#)

2 : to include along with something else in a parcel or envelope <a check is enclosed herewith>

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